IN THE HIGH COURT OF UTTARANCHAL AT

NAINITAL

Civil Misc. Writ Petition No. 615 (S/S) of 2001

(Old No. 42854 of 1998)

Narain Dutt Pandey S/o Ganga Dutt Pandey
R/o Village and Post Shisuwa,
Tehsil Ranikhet, District- Almora.

..... Petitioner

Versus

The Commissioner, Kumaon Division,
Nainital and two others. ..... Respondents

Hon'ble P.C.Verma,J.

Heard Sri B.D.Upadhyay, learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner joined on 18.06.1989 on Class IV post on ad-hoc basis. He was allowed to continue in service upto 23.10.1997. The posts were advertised in the year 1995, in which the petitioner was also applied and was selected. He was placed at serial No.2 in the general category. From the said list the juniors to the petitioner have been appointed but the petitioner has not been appointed and the petitioner has not been allowed to work after 1997. Since the petitioner was allowed after the selection held in the year 1995 till 1997 and in the meantime other persons junior to the petitioner have been regularly appointed, therefore the termination of the petitioner is illegal as it has not been denied in the counter affidavit that the persons junior to the petitioner have been appointed. It is stated that the burden was on the petitioner to show that the juniors were appointed. The petitioner has named the juniors in the writ petition, who have been appointed. This fact has not been denied in the counter affidavit rather in the counter affidavit dated 26.06.2000, it has been stated that the representation of the petitioner shall be considered in June 2000.

For the reasons recorded above, it is held that the termination of the petitioner is illegal.

Accordingly, the termination order, if any, is quashed. The petitioner shall be allowed to continue to work as Class-IV employee on regular basis as regularly appointed candidate.

27.08.2003

P.Singh

P.C.Verma.J,